

A Guide to Selling Beverages in the State of Maine



Regulatory Requirements For Beverage Plant Licensing and Bottle Bill Laws



Maine Department of Agriculture, Conservation & Forestry
Division of Quality Assurance and Regulations
28 State House Station
Augusta, Maine 04333
(207) 287-3841

www.maine.gov/agriculture/qar

Introduction

The information contained in these guidelines will assist you in the process of meeting regulatory requirements in order to sell beverages in the State of Maine.

These guidelines are intended to outline the key points that are necessary to comply with the laws, rules and regulations for both beverage plant licensing and the bottle bill laws, enforced by the Department of Agriculture.

Note: Beverage plant licensing and Bottle Bill law requirements are two separate issues.

For help or additional information in meeting these regulatory requirements, please contact the:

Maine Department of Agriculture, Conservation & Forestry
Division of Quality Assurance and Regulations
28 State House Station
Augusta, Maine 04333
(207) 287-3841

Website: <http://www.maine.gov/agriculture/qar/bottlebill/index.html>

There are other regulatory requirements relating to the sale of alcoholic beverages that must be met prior to offering those beverages for sale in the State of Maine. To assist you in meeting the licensing, registration and reporting requirements for alcoholic beverages, you will need to contact:

Maine Department of Public Safety
Liquor Licensing and Inspections Unit
164 State House Station
Augusta, Maine 04333-0164
(207) 624-7220

Website: <http://www.maine.gov/dps/liqr/index.html>

Beverage Plant Licensing

Any bottler of a beverage as defined by 32 MRSA section 1751 (1) shall obtain a beverage plant license prior to selling any beverage(s) in the State of Maine. This requirement applies to both in-state and out-of-state bottlers of non- alcoholic beverages.

"Beverage" means any non-alcoholic flavored carbonated drink, soda water, non-alcoholic still drinks, diluted fruit or vegetable juices whether sweetened or unsweetened, seasoned or unseasoned with salt or spice, or still or carbonated mineral waters used as a drink. The term shall not include undiluted concentrated fruit or vegetable juice nor such juice when reconstituted to its original volume.

If a beverage product line is bottled or co-packed at multiple locations, each location shall be separately licensed to be considered in compliance.

A complete listing of beverage plant licensing laws can be found on line at:

<http://janus.state.me.us/legis/statutes/32/title32ch27sec0.html>

Licensing Process

- Complete the beverage plant section of the food and fuel license application found online at:
<http://www.maine.gov/agriculture/qar/qarforms/index.htm>
- Submit the application accompanied by a licensing fee of either \$75.00 for a facility with 0 to 5 employees, or \$150 for 6 or more employees. All checks are to be made payable to “Treasurer, State of Maine”;
- Each application must include a copy of the facility’s most recent sanitation report performed by a regulatory agency;
- Each application must include a label of each brand, size and kind of beverage bottled at that specific facility and sold in the State of Maine;
- Beverage plants not located in the State of Maine are not required to supply the Department with information in regards to water testing and septic system requirements as noted on the application;
- Please note that when submitting payment for beverage plant licensing, the application and fee must be submitted separately from all other application submissions.

Maine Bottle Bill Requirements

Getting started, it is important to understand what a beverage is, and what it is not. A beverage is defined by 32 MRSA Section 1861 (1) and Chapter 360 Section 1 (B) (1) as:

“Beverage” means beer, ale or other drink produced by fermenting malt, spirits, wine, wine coolers, soda or noncarbonated water and all nonalcoholic carbonated or noncarbonated drinks in liquid form and intended for internal human consumption, except for unflavored rice milk, unflavored soymilk, milk and dairy-derived products.

The term "beverage" excludes the following:

- (a) A liquid which is (i) a syrup, (ii) in a concentrated form or (iii) typically added as a minor flavoring ingredient in food or drink, such as extracts, cooking additives, sauces or condiments;
- (b) A liquid which is ingested in very small quantities and which is consumed for medicinal purposes only;
- (c) A liquid, which is designed and consumed only as a nutrition supplement and not as a beverage;
- (d) Products frozen at the time of sale to the consumer, or, in the case of institutional users such as hospitals and nursing homes, at the time of sale to such users;
- (e) Products designed to be consumed in a frozen state;
- (f) Instant drink powders;
- (g) Seafood, meat or vegetable broths, or soups, but not juices;
- (h) Maine produced apple cider, and blueberry juice;
- (i) Milk and dairy derived products.

If your product(s) meet the legal definition of a beverage, it will then be necessary that all requirements of the Bottle Bill **be met prior** to offering beverage(s) for sale in the State of Maine.

Should you have questions relating to the exemption of a beverage from Maine Returnable Container Law requirements, you may contact this office at 207-287-3841 for guidance. It may be necessary that you submit the actual product label for review in order to make that determination.

Labeling Requirements

As a part of the registration process, the Department requires that a label for each brand, kind and size be submitted for approval prior to sale in the State of Maine. Labeling requirements are as follows:

- The deposit and refund value must not be less than 15 cents for wine and spirits, and 5 cents for all other beverages;
- On printed labels, the refund value and the word "Maine" or the abbreviation "ME" shall be clearly and conspicuously displayed on every beverage container using letters, numerals and symbols;
- The deposit logo must not be less than 1/8 inch high in clear and prominent typeface and a color contrasting with its background. The refund value shall not be indicated on the bottom of the container;
- On metal beverage containers the refund value and the word "Maine" or the abbreviation "ME" shall be embossed, incised, or printed clearly and conspicuously on the top of every beverage container using letters, numerals and symbols that are not less than 1/8 inch in height;
- Additionally, if a manufacturer directly prints, embosses, or incises the Maine redemption value on the beverage container, the manufacturer or in the case of a private label, the brand owner must submit such labeled container, such as incised can or jet printed bottle to the Department for approval. Placement suitability and security of the mark will be examined;

- With the exception of wine products, all beverage containers sold in the State of Maine shall bear a Universal Product Code (UPC) that is unique for that product;
- Beverages, when sold as a multi-pack unit, must have a UPC on each individual beverage container (Do not register the overwrap UPC of multi-wrapped packaging).

Registration Requirements

The Bottle Bill requires the registration of beverage labels. 32 MRSA Section 1865 (3) and Chapter 360 Section 5 requires beverages to be registered by their UPC for each combination of beverage and container manufactured:

- Before being sold in the State;
- Must be renewed annually;
- Whenever that label is revised by altering the UPC; and
- Whenever the container on which it appears is changed in size, composition or glass color.

Registration of beverage container labels must take place at the manufacturer level or, if the beverage container has a "private label", the brand owner shall be responsible for label registration. In the case of imported beverages, the importer may register the beverage label(s).

Registration is done by completing the Beverage Container Licensing /Labeling Registration and Beverage Container Label Addendum forms. Forms are available online at:

<http://www.maine.gov/agriculture/qar/bottlebill/index.html>

Your application must include a label for each beverage you are registering which shows the Maine deposit logo and UPC.

In addition, all metal beverage containers that are embossed, incised, or printed with the deposit logo on the top of the can, and any beverage container that the deposit logo is applied by ink jet or other means, must be submitted to the Department for approval.

Registration fees are \$1 each for wine labels and \$4 each for all other labels. Make checks payable to “Treasurer, State of Maine”.

Initiator of Deposit

An “Initiator of Deposit” or “initiator” is defined by 32 MRSA Section 1862 8-A as:

A manufacturer, distributor or other person who initiates a deposit on a beverage container under section 1863-A.

This is also defined by Chapter 360 section 1B (1) (5) as "Initiator of Deposit" as meaning:

A business entity, either a manufacturer, distributor, or seller who is licensed by the Maine Department of Agriculture, Food & Rural Resources to initiate deposits on beverage containers with labels properly registered under 32 M.R.S.A. section 1865 subsection 3 and meeting the deposit requirements enumerated in 32 M.R.S.A. section 1863-A.

An “Initiator of Deposit” in most cases is the distributor of the beverage. When a beverage is sold through a multiple distribution system, it is the manufacturer or brand owner who may become the “Initiator of Deposit” and obtain the license. An “Initiator of Deposit” in most cases provides for the retrieval of empty beverage containers.

An “Initiator of Deposit” must be licensed in accordance with 32 MRSA Section 1871-A of the Bottle Bill. Licensing is obtained by completion of the Beverage Container Licensing /Labeling Registration form, and remitting the \$500 annual fee.

An exemption in the reduction of the initiator of deposit licensing fee exists for certain manufacturers. Chapter 360 Section 3 (a) (1) states Applications for approval of Initiators of Deposit of small brewers or vintners who produce no more than 50,000 gallons of its product or a bottler of water who annually sells no more than 250,000 containers each containing no more than one gallon of its product shall be filed with the Department, a \$50.00 annual license fee shall accompany each application.

To qualify for this exemption, a brewer or vintner must prove that the annual company’s production is less than 50,000 gallons. In addition, a water bottler must prove that the total amount of beverage containers (4

liter is size or less) produced by a company did not exceed 250,000 units in annually. The basis for this determination has no bearing on the amount of beverage sales in the State of Maine.

Responsible Party for Pickup

The Bottle Bill requires that there be a responsible party for the retrieval of empty beverage containers from retailers of the beverage, and the licensed redemption centers who service those retailers. The responsible party shall pay the deposit value and applicable handling fees to retailers and licensed redemption centers.

The Department is unable to register beverages or issue “Initiator of Deposit” licenses to applicants who do not have a system in place to retrieve empty containers.

Beverages offered for sale, which have no responsible party for the retrieval of empty beverage containers, are considered a violation. The Department may take action against such beverage(s) by removing them from sale.

Contracted Agent

Chapter 360 Section B (4) defines "Contracted Agent" as:

A public or private company or individual who enters into an agreement with the initiator of deposit to pick up empty beverage containers from redemption centers and dealers.

Each contracted agent must be licensed. A license is obtained by completing the Beverage Container Licensing /Labeling registration form and remitting the \$500 annual fee.

There are two firms currently licensed by the Department to provide these services to Initiators of Deposit:

TOMRA Returnable Services LLC
150 Mt. Vernon Ave
Augusta, Maine 04330
Telephone 207-623-2944
Website: <http://www.returnableservices.com/>

Maine Recycling Corp.
61 Capital Ave.
Lisbon Falls, Maine
Telephone 207-353-7142
Website: <http://www.mainerecycling.com/>

On-Line Resources

Beverage Plant Laws:

32 MRSA Chapter 27 <http://janus.state.me.us/legis/statutes/32/title32ch27sec0.html>

Bottle Bill Laws

32 MRSA Chapter 28 <http://janus.state.me.us/legis/statutes/32/title32ch28sec0.html>

Bottle Bill Regulations

Chapter 360 <http://www.maine.gov/sos/cec/rules/01/001/001c360.doc>

Registration/License Forms

Beverage Plant License Application

<http://www.maine.gov/agriculture/qar/qarforms/index.htm>

Licensing/Labeling Registration Application

<http://www.maine.gov/agriculture/qar/bottlebill/index.html>

Beverage Container Label Addendum

http://www.maine.gov/agriculture/qar/bottlebill/BOTTLEBILL_APPLICATION_ADDENDUM.doc

A daily updated listing of registered beverages in downloadable EXCEL format is available on the Departments website. <http://www.maine.gov/agriculture/qar/bottlebill/RCREGISTRATIONLIST.xls>

Maine Revenue Services

Initiator of Deposit Tax Information/Forms

http://www.maine.gov/revenue/othertaxes/initiator_of_deposit/initiator_of_deposit.htm

BEVERAGE CONTAINER SALES CHECKLIST

- _____ Bottling facilities of non- alcoholic beverages defined by 32 MRSA section 1751 (1) must be licensed as Beverage Plant(s) with the Maine Department of Agriculture.
- _____ Labels must be registered with the Maine Department of Agriculture.
- _____ Labels, with bar codes where applicable, must be submitted for approval to the Maine Department of Agriculture. If deposit language is printed or embossed on container(s) a sample of the container must be submitted.
- _____ You must identify the party who will take responsibility as the Initiator of Deposit and that party must be licensed as an Initiator of Deposit with the Maine Department of Agriculture.
- _____ Their must be a responsible party who is assigned to retrieve the beverage containers assigned to an initiator of deposit and pay the redemption centers the deposit value and handling fee. If done through a third party contractor, the third party contractor assign as the pick-up agent must be licensed for that purpose with the Maine Department of Agriculture.
- _____ Alcoholic beverages must comply with all regulatory requirements for licensing, registration, reporting and sales of alcohol. Contact the Maine Department of Public Safety, Liquor Licensing and Inspections Unit. <http://www.maine.gov/dps/liqr/index.html>

Unclaimed Deposits

Certain “Initiators of Deposit” have reporting requirements ([32 MRSA Section 1866-E](#)) for "unclaimed" or "unredeemed" deposits that remain the property of an Initiator of Deposit. These monies are required under law be reported to the Maine Revenue Services.

An exemption from these reporting requirements exists for certain beverages of brand, kind and size that are part of a co-mingling group, and a brewer who produces no more than 50,000 gallons of its product or a bottler of water who sells no more than 250,000 containers each containing no more than one gallon of its product in a calendar year are exempt from the requirements of this section for that year. All others must comply with requirements of this statute.

For information on meeting the filing requirements of the Initiator of Deposit Tax, please contact:

Laurie Brann
Department of Administrative & Financial Services
Maine Revenue Services
Sales, Fuel & Special Tax Division
24 State House Station
Augusta, ME 04333-0024
(207) 624-9615

On-line information and forms are available on the Maine Revenue Services website at:
http://www.maine.gov/revenue/othertaxes/initiator_of_deposit/initiator_of_deposit.htm